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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

May 7, 1993

**HAND DELIVER**

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, DC 20554

Dear Ms. Searcy:

On behalf of Capital Cities/ABC, Inc., transmitted herewith for filing with the Commission are an original and five copies of its Comments in MM Docket No. 93-48.

If there are any questions in connection with the foregoing, please contact the undersigned.

Sincerely,

Kristin C. Gerlach

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Enclosures

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of )

Policies and Rules Concerning )  
Children's Television Programming )

Revision of Programming Policies )  
for Television Broadcast Stations )

MM Docket No. 93-48

COMMENTS OF CAPITAL CITIES/ABC, INC.

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May 7, 1993

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## Summary

The Commission requests comment on three proposals: (a) a requirement that broadcasters place primary reliance on standard-length rather than short-form programming; (b) a requirement that an "educational and informational" program must have education as its primary objective, with entertainment as a secondary goal; and (c) adoption of staff processing guidelines.

Although we agree with the Commission's overall objective to better serve the educational and informational needs of children, we are concerned that these proposals could undermine this objective.

1. Standard-length and short-form programming. The Commission's current implementation criterion, which requires that some standard-length programming be broadcast but that also gives credit for short-form programming, is preferable to the Commission's new proposal. Short-form segments are an effective educational tool because the segment length better matches the attention span of children, particularly younger children. In addition, short-form segments inserted in popular children's entertainment programs are likely to reach a larger children's audience than the audience that would be reached by a standard-length "educational program."

We also believe the Commission should make it clear that program "specials" of one-half hour or longer meet the standard-length programming criterion even though they are not scheduled on a weekly basis. The ABC Television Network has broadcast several educational children's specials on a variety of topics of importance to children. These programs should receive full, primary credit toward fulfilling a licensee's programming obligation under the Act.

2. "Primary Objective" Test. We think it would be unwise for the Commission to adopt this proposed new criterion. It is more subjective, and thus more difficult to apply, than the statutory standard that a program be "specifically designed" to serve children's educational or informational needs. It could also have the unfortunate result of discouraging the production and broadcast of worthy educational programs that are also entertaining because of their superior production values.

In addition, the "primary objective" criterion sets up a false dichotomy between education and entertainment. In commercial television at least, education and entertainment are twin objectives and neither is more "primary" than the other.

3. Processing Guidelines. The Commission should reject this approach because it conflicts with Congress' expressed intent in the Act to avoid a quantitative test, because it could undermine the goal of expanding the amount of educational programming, and because it would be premature at this time.

If the Commission nevertheless decides to adopt a processing guideline, it must be designed to give credit for broadcast of short-form educational programming, educational specials that are not regularly scheduled and local nonbroadcast efforts. Finally, should a processing guideline be adopted, there should be no separate guideline with respect to weekday and weekend programming.

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MM Docket No. 93-48

broadcasters place primary reliance on standard-length rather than short-form programming; (b) a requirement that, in order for a program to meet the Act's definition of "educational and informational," its primary objective must be educational, with entertainment as a secondary goal; and (c) adoption of staff processing guidelines specifying an amount and type of children's programming to permit staff grant of a license renewal application without further review.

We agree with the Commission's overall objective - to promote compliance with the Act to better serve the educational and informational needs of children. We are concerned, however, that these proposals could undermine this objective and result in reducing rather than improving the level of educational and informational programming directed to children.

**I. THE COMMISSION SHOULD CONTINUE ITS CURRENT POLICY OF GIVING CREDIT FOR SHORT-FORM PROGRAMMING.**

The Commission proposes that broadcasters should place primary reliance on standard-length programming (defined as programs at least one half-hour long), with short-segment programming to be given secondary importance. The reason for this proposal is that standard-length programming is available at predictable times, which assists parents in planning their children's television viewing.<sup>2</sup>

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<sup>2</sup> Notice at paragraph 8.



Although the Notice does not fully explain what is meant by "primary" and "secondary" reliance, we assume that what is intended is that the Commission would reduce the credit it now gives to short-form programming without regard to the nature or amount of such programming. In our judgment, the Commission's current implementation criterion, which requires that some standard-length programming be broadcast but that also gives credit for short-form programming, is preferable to the Commission's new proposal.

The Commission has already made it clear that short-form programming can serve children's educational needs, and therefore can contribute toward satisfying the programming obligation under the Act. While the broadcast of this programming alone cannot fulfill the obligation,<sup>3</sup> there is no sound basis for concluding that short-form programs are of secondary importance from an educational standpoint. Indeed, we believe that short-form segments are an effective educational tool.<sup>4</sup>

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<sup>3</sup> Memorandum Opinion and Order in the Matter of Policies and Rules Concerning Children's Television Programming and Revision of Programming and Commercialization Practices, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations, MM Docket Nos. 90-570 and 83-670, 6 FCC Rcd 5093, 69 Rad. Reg. 2d (P&F) 1020 (rel. Aug. 1991) ("Reconsideration Order"); Order Further Modified 6 FCC Rcd 5529 (1991); Reconsideration Order at paragraph 41.

<sup>4</sup> Short-form programs are also generally less expensive to produce, which can be of significant value to stations with fewer resources. See Reconsideration Order at paragraph 42.

We believe that short-form programming is an effective educational vehicle because the segment length better matches the attention span of children, particularly younger children. Studies reveal that the length of a younger child's "active attentional contact" with learning materials in the classroom is much closer to the length of a short-form segment than a standard-length program. Whether directed to television or to print, a child's attentional periods are of similar length and are discontinuous.<sup>5</sup> Experts have concluded that these results are not modifiable because they are a function of the child's stage of development.

Short-form segments inserted in popular children's entertainment programs have another advantage in terms of educational impact. Because they are viewed by the audience drawn to the entertainment program, they are likely to reach a larger children's audience than the audience that would be reached by a standard-length "educational program."

"ABC Schoolhouse Rock" is a particularly noteworthy short-form program. This is a highly popular series of three-minute programs on a variety of subjects which make learning

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<sup>5</sup> Imai, M., Anderson, R.C., Wilkinson, I.A.G. and Yi, H. (1992). Properties of attention during reading lessons. Journal of Educational Psychology, 84, 160-173.

and

Wright, John. Unpublished study conducted at Center for Research on the Influences of Television on Children, Lawrence, Kansas. Reported in Conference Proceedings: Television and the Preparation of the Mind for Learning, 1992, 90.

fun by mixing music with history, science, mathematics and grammar. Examples are: America Rock ("Preamble," "Just a Bill," "Shot Heard Round the World"), Science Rock ("Weather," "Body Machine," "Electricity," "Energy Blues") and Multiplication Rock ("Four Legged Zoo," "2 Elementary My Dear"). These programs are introduced with engaging, signature music that immediately draws the child's attention to the programs. They invite the child's active participation via song and rhyme. Since attention and active participation enhance learning, it is not surprising that the content of these spots is retained over many years.<sup>6</sup>

The "Schoolhouse Rock" programs originally aired on the ABC Television Network from 1973 to 1985. Because of their high educational value, they were returned to the network broadcast schedule in September 1992. Thus, "ABC Schoolhouse Rock" currently appears once each Saturday morning at the same time each week. Beginning with the 1993-94 broadcast season in September 1993, two "Schoolhouse Rock"

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<sup>6</sup> A recent research study indicates that "Schoolhouse Rock" has been very effective in transmitting educational content to young viewers, due in significant part to the structure provided by the music (song) and the repetition of the programs. Calvert, S. and Tart, M. "Song vs. Verbal Forms For Very Long-Term, Long-Term and Short-Term Verbatim Recall", Journal of Applied Developmental Psychology Vol. 14, No. 2 (in press). In addition, we are aware of substantial anecdotal evidence -- e.g., reports of students humming the Preamble to the Constitution to the tune of the Schoolhouse Rock program "America Rock -- Preamble" while taking examinations on the Constitution. Several college newspapers have reported on this phenomenon of the "Schoolhouse Rock generation." E.g., U., The National College Newspaper, Volume 4, May 1991.

programs will be broadcast in two specific time periods each Saturday morning.

We agree with the Commission that it is desirable for parents to know when educational programs are on the air to schedule their children's viewing. Although short-form

"specials," and programs that are scheduled less frequently than once per week.<sup>8</sup>

The ABC Television Network has broadcast several one-time educational children's specials on a variety of topics, including sports, prejudice and cultural differences, and current issues of importance to children. An example in

hour-long specials, which are scheduled approximately once per month, explore social issues faced by teenagers and are supported by study guides available to parents, teachers and librarians. Topics covered during the 1992-1993 broadcast season included the spread of HIV/AIDS among teenagers, dangers of drinking and driving, recovery from child sexual abuse, adoption, controversies over school-based health clinics, random drug testing, second marriages/merging families, recovery from substance abuse and self-esteem. These programs, though not broadcast on a weekly basis, should receive full, primary credit toward fulfilling a licensee's programming obligation under the Act.

**III. THE COMMISSION SHOULD NOT ADOPT A "PRIMARY/SECONDARY OBJECTIVE" TEST FOR EDUCATIONAL PROGRAMMING.**

The second of the Commission's proposals is to adopt a new criterion which would have to be met in order for a program to qualify as a "core" educational or informational children's program. Under this proposal, the primary objective or "explicit" purpose of the program must be "educational" with entertainment as a secondary goal, and therefore only "implicitly" present. The reason the Notice gives for this proposal is to avoid misplaced reliance by broadcasters on programs that are basically entertainment with "wrap-around" pro-social messages.<sup>9</sup>

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<sup>9</sup> Notice at paragraph 8.

We think it would be unwise for the Commission to adopt this proposed new criterion. It is a more subjective standard, and thus less capable of being applied by the Commission in a consistent and evenhanded manner, than the statutory standard that a program be "specifically designed" to serve children's educational or informational needs. The proposed criterion would create more uncertainty for licensees. We also believe that it could have the unfortunate result of discouraging the production and broadcast of worthy educational programs that are also entertaining because of their superior production values.

The "specifically designed" standard is more objective than the proposed "primary objective" criterion because it can be tested by reference to the program development process. Whether or not an educational goal has been built into a program in the planning and production process can be objectively determined. For example, a program plan that specifies an educational goal and that is implemented with the advice of educational experts would meet the "specifically designed" test. If a program has been so designed, the fact that the program is also very entertaining should not detract from its ability to qualify as meeting the program obligation. In fact, the use of entertainment techniques, such as music, rhyme, fantasy and bold graphics, can enhance the child's attention to the program and thus the effectiveness of the learning experience. "Sesame Street" is

a perfect example of an educational program which makes ample use of entertainment techniques.<sup>10</sup>

To a significant degree, the "primary objective" criterion sets up a false dichotomy between education and entertainment. In commercial television at least, education and entertainment are twin objectives and neither is more "primary" than the other.<sup>11</sup> The primary/secondary dichotomy thus fails to take into account the reality that an educational program that is so lacking in entertainment value that it fails to attract a large enough audience to generate adequate advertising revenue will not survive. The unassailable fact is that children cannot be fooled into watching an educational program they do not like. The

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<sup>10</sup> In addition, the upcoming ABC children's television series "CRO", which has been developed with Children's Television Workshop ("CTW"), has been specifically designed with an educational objective -- to expose the child audience to a variety of simple tools, machines, and scientific principles. Content Guidelines prepared in advance of production set forth the scientific principle to be illustrated in each episode. At the same time, however, the series is animated and features entertaining



Congress and the Commission have properly recognized the importance of maintaining a strong revenue base for children's programs.<sup>12</sup>

The problem that the Commission identifies as the impetus for a new standard -- the entertainment program whose only educational element is the "wrap-around" message -- can be solved under the "specifically-designed" standard. Such a program would fail to qualify as "specifically-designed" to serve children's educational needs except for the time periods occupied by the pro-social segments themselves.

We do not mean to suggest that there is not a legitimate category of pro-social educational programs where the message is integral to the program as a whole. We agree with the Commission's conclusion that such pro-social programs contribute to the emotional and social needs of the child audience and therefore are "educational and informational" within the meaning of the Act.<sup>13</sup> Thus, programming that sheds

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<sup>12</sup> The Legislative history notes the importance of commercial advertising revenue to the continued acquisition and production of quality children's programming. Children's Television Act of 1989, House Committee on Energy and Commerce, H.R. Report No. 385, 101st Cong., 1st Sess. 16 (1989) ("House Report"); Senate Report at 20. In addition, in rejecting the position that programs with products associated with them be classified as "program-length commercials," the Commission stated that its definition of that term "preserves the creative freedom and practical revenue sources that make children's programming possible." Reconsideration Order at paragraph 28. See also Report and Order at paragraphs 40-41.

<sup>13</sup> "Educational and informational programming" is defined as "programming that furthers the positive development of the child in any respect, including the child's cognitive/intellectual or emotional/social needs." Report and Order at paragraph 21.

light on "crucial decisions concerning sex, drugs, and [teenagers'] identities"<sup>14</sup> or teaches children to appreciate racial and cultural differences, is clearly educational and informational.

One example of a strong pro-social program is "City Kids," a program which appeared on the ABC Television Network in January 1993 as a one-time children's educational special, and which will be a regularly-scheduled Saturday morning series beginning in September 1993. This live-action program

type of children's programming" that would permit staff grant of a license renewal application meeting the guideline without further review. It suggests that adoption of a guideline would provide dual benefits: "clearer guidance" to broadcasters regarding their obligation to serve the educational and informational needs of children; and facilitation of the license renewal review process for the Commission staff.

In our view the Commission should reject this approach because it conflicts with Congress' expressed intent in the Act to avoid a quantitative test and because it could

The Commission suggests that the guideline merely determines the level of Commission scrutiny rather than operates as a quantity standard, since failure to meet the guideline results in further review rather than automatic non-renewal or other sanction. Although we understand the distinction the Commission is attempting to draw, we believe that a guideline will be understood to be, and will have the effect of, a quantity requirement -- those broadcasters who air the requisite amount of educational programming "pass the test" for license renewal on this issue.

Adoption of a quantification standard would be  
~~limited to the fact and directly contrary to the legislation~~

Although the Commission suggests that a processing guideline would have the virtue of providing "clearer guidance" to licensees, we believe that the price for greater certainty could well be to limit creative competition among program creators and broadcasters by narrowing the scope of their innovation, creativity and ultimately their discretion. Thus, establishing a minimum quantity of core educational programming might have the unintended effect of contracting rather than expanding the amount of educational programming for children on broadcast television. Some stations, particularly those with fewer resources, will tend to focus on satisfying the processing guideline in order to reduce uncertainty with respect to license renewal and to reduce administrative and legal costs associated with Commission regulation. This may result in the concentration of educational efforts on isolated programs while very little attention is paid to the rest of the children's schedule.

The Commission has previously recognized the potentially stifling effect of processing guidelines. Thus, in the Reconsideration Order, the Commission stated that it:

... agreed ... that such guidelines would tend to make compliance overly rigid, as broadcasters seek to meet the criteria in order to insulate themselves from further review ... [B]y providing safe harbors, such guidelines might well have the unintended

broadcasters air.<sup>16</sup>

Accordingly, without a processing guideline, we believe there would be more incentive for stations to experiment which is likely to result in more innovation and greater overall educational efforts.

Nor would a processing guideline be consistent with

considered this issue only two years ago.<sup>18</sup>

Broadcasters' programming efforts may consist not only of programs specifically designed for children, but also programs of broader age appeal that nevertheless serve children's needs. Imposing a specific percentage requirement or other minimum quantity, whether for "specifically designed" programs or for overall programming serving children's needs, would be inconsistent with the intention, expressed repeatedly in the legislative history, that the broadcaster's judgment regarding the "appropriate mix" of programming and other nonbroadcast efforts be based on its assessment of children's educational and informational needs in its community. The Commission has previously stated that "the very establishment of such guidelines would infringe on broadcaster discretion regarding the appropriate manner in which to meet children's educational and informational needs."<sup>19</sup>

Thus, if the Commission decides to adopt a processing guideline, the guideline should be a flexible one which affords broadcasters maximum discretion in meeting their obligations. Any other approach would be flatly inconsistent

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<sup>18</sup> "... we believe that the amount of 'specifically designed' programming necessary to comply with the Act's requirement is likely to vary according to other circumstances, including but not limited to, type of programming aired and other nonbroadcast efforts made by the station. We thus decline to establish any minimum programming requirement..." Report and Order at paragraph 24.

<sup>19</sup> Reconsideration Order at footnote 105.

with the Act and its legislative history.<sup>20</sup> Accordingly, any processing guideline would have to account for all the programming as well as extra-broadcast activities which can contribute to meeting the educational and informational needs of children under the Act.

If the Commission decides to institute a processing guideline, it should not distinguish between weekday and weekend children's programming. A guideline requiring separate obligations to program both during the week and on weekends would fail to take into account the well-established industry practice that network affiliated stations generally program for children on weekends and independent stations do so on weekdays. It would disrupt significantly the broadcast schedules of these stations and operate as a substantial intrusion into broadcasters' programming judgments.<sup>21</sup> In

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<sup>20</sup> "We have left the licensee the greatest possible flexibility in how its discharges its public service obligation to children. We recognize that there is a great variety of ways to serve this unique audience ... The list can be extended as far as the imagination of the creative broadcaster..." 136 Cong. Rec. S10121 (daily ed. July 19, 1990) (remarks of Sen. Inouye). "Of course, it is expected that the FCC, in evaluating the licensee's compliance with this provision, will defer to the licensee's judgment to determine how to serve the educational and informational needs of children in its community." 136 Cong. Rec. S10127 (daily ed. July 19, 1990) (remarks of Sen. Wirth).

<sup>21</sup> Based on the February 1993 survey period, only 56 ABC, CBS and NBC network affiliates (out of a total of 563) broadcast some children's programming in the "early fringe" time period (3:00 - 6:00 PM ET) on weekdays. In contrast, the vast majority of independent stations (including those affiliated with the Fox Television Network), offer children's programming in this time period. Source: NSI Feb. 93 (ABC Research Department Analysis).



addition, both the legislative history of the Act and the previous Commission orders make it quite clear that a broadcaster is entitled and encouraged to consider other stations' children's programming efforts in determining how that broadcaster can best serve children's needs.<sup>22</sup> Part of that market assessment could obviously include consideration not only of the kinds of children's programming in the community, but the times it is presented. A bifurcated processing guideline would interfere unduly with broadcasters' exercise of discretion in this area.

Finally, adoption of a processing guideline may be premature. As the Commission notes, those broadcasters whose license renewal applications have been reviewed since passage of the Act "have, at most, had one year of their five year license term subject to CTA requirements."<sup>23</sup> One year of licensee conduct under the Act and only one year of Commission regulatory experience is not a sufficient basis upon which to adopt new enforcement guidelines. Moreover, if the Commission clarifies the meaning of "specifically designed" as we suggest in these comments, and continues to permit broadcasters to package educational programs in an entertaining fashion, there is a good likelihood that the amount of educational and informational programming for children will increase.

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<sup>22</sup> Reconsideration Order at paragraph 37; 136 Cong. Rec. S10275 (daily ed. July 23, 1990) (remarks of Sen. Burns).

<sup>23</sup> Notice at footnote 2.